IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24599 of 2004

Between:

Abdul Shukur S/o Sk.Nanne Sab
H.No.1-60, Bashirabad,

Kammarapally Mandal, Nizamabad District

..... PETITIONER

AND

1. The Deputy Transport Commissioner & Secretary,

   Regional Transport Authority, Nizamabad.
2. The Motor Vehicle Inspector.

   Armoor, Nizamabad. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the seizure and continued detention of petitioner's Maxicab bearing Regd.No.AP 25U 1403 seized under Vehicle Check Report No.0076884, dt. 16/12/2004 by the 2nd respondent i.e., the Motor Vehicle Inspector, Armoor, Nizmabad District as illegal, unjust , arbitrary, unconstitutional and without jurisdiction and consequently direct the respondents to forthwith release the petitioner's vehicle Maxicab bearing Regd. No.AP 25 U 1403, to the petitioner.

Counsel for the Petitioner: MR.RAJANIKANTH JWALA

Counsel for the Respondents: GP FOR TRANSPORT

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24599 of 2004

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ORDER:

The petitioner has filed this writ petition seeking a direction to the respondents to release his Vehicle Maxicab bearing Regd.No.AP 25 U 1403.

2 . The 2n d respondent seized the petitioner's vehicle under check report bearing No.0076884, dated 16-12-2004 for violation of certain irregularities and kept vehicle under detention in the Motor Vehicle Inspector's Office, Armoor.

3. The learned counsel for the petitioner has contended that the petitioner is a poor educated unemployee and that he made a representation, dated 16-12-2004 to the 1st respondent requesting him to release the vehicle, but the 1st respondent refused to release the vehicle. Therefore, he prays to grant interim custody of the vehicle to the petitioner. The counsel has further contended that if any violations are made, the petitioner will be liable to pay the amount.

4. The learned Government Pleader for Transport has opposed the application filed by the petitioner on the ground that the petitioner has to approach the 1st respondent-Transport authority for grant of interim custody of the vehicle and appropriate orders have to be passed by the 1st respondent, but the petitioner,

without approaching the 1st respondent has filed this writ petition.

5. As per the check report, dated 16.12.2004, the 2nd respondent seized the vehicle of the petitioner for violation of certain irregularities. Though it is asserted in the affidavit that the petitioner made a representation, dated 16.12.2004, the 1st respondent has not taken any steps for grant of interim custody of the vehicle since the vehicle is being used for the purpose of carrying the passengers. Therefore, it would be appropriate to direct the interim custody of the vehicle to the petitioner.

6. In the light of the above circumstances, the 1st respondent-Deputy Transport Commissioner is directed to release the vehicle of the petitioner for interim custody on condition that the petitioner deposits Rs.7,500/- (Rupees Seven Thousand Five Hundred Only) on the following terms and conditions.

1. *that the petitioner shall not transfer the vehicle to any other person without the permission of the 1st respondent.*
2. *that the petitioner shall not change the engine or any part of the vehicle.*
3. *that the petitioner shall produce the vehicle as and when required by the authorities concerned.*
4. *that the petitioner shall participate in the enquiry that is going to be conducted by the 1st respondent after receipt of show cause notice by filing his explanation.*
5. *that the tax, if any, may be adjusted out of the amount deposited by the petitioner.*

The 2nd respondent may take further steps for recovery of the tax from the petitioner.

7. Accordingly, the writ petition is disposed of in terms of the above directions. There shall be no order as to costs.

December 29, 2004

Note:

Wire at party's costs.

B/o.

Kvr

To

1. The Deputy Transport Commissioner &

   Secretary, regional Transport Authority, Nizamabad.

2 The Motor Vehicles Inspector. Armoor,

   Nizamabad. District.

3 Two CCs to G.P. for Transport,

High Court Buildings, Hyderabad (OUT).

4. Two C.D copies.